



Montoya, Darlene <dmontoya@nmag.gov>

documents requested

2 messages

David Rodriguez <drosdriguez@lovington.org>
To: dmontoya@nmag.gov

Tue, Dec 27, 2016 at 11:38 AM

Attached please find the Use of Force policy requested. Please let me know if you need anything else.

David Rodriguez

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use of force policy.pdf
11442K

Montoya, Darlene <dmontoya@nmag.gov>
To: drosdriguez@lovington.org

Tue, Dec 27, 2016 at 3:22 PM

Your message

To: Montoya, Darlene

Subject: documents requested

Sent: 12/27/16, 11:38:37 AM MST

was read on 12/27/16, 3:22:18 PM MST

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ADMINISTRATION SECTION 03.01 – USE OF FORCE PAGE 1

I. STATEMENT OF PURPOSE

The use of force by a police officer is an extremely sensitive issue and requires careful study and understanding by every officer. This is especially true since the definitions of the use of force by police are based on the determination of reasonableness under the circumstances. Although the careful use of force is authorized by law, the use of unnecessary or unreasonable force is strictly prohibited and will not be tolerated.

While clear boundaries of reasonableness can be defined for certain police situations, others must be interpreted for the particular set of circumstances involved. The purpose of this section is to provide each officer with policy guidance and direction with respect to the use of force in carrying out his duties.

II. DEFINITIONS

- A. **Deadly Force** – Force that is intended or known by the person using the force to cause, or in the manner of its use or its intended use, is capable of causing death or serious bodily injury.
- B. **Objective Reasonableness** – The actions of an officer's use of force must be judged from the perspective of a reasonable officer when confronted with the same circumstances.
- C. **Reasonable Force** – Use of the minimum amount of force needed to achieve control over an incident or person.
- D. **Serious Bodily Injury** – Injury that creates a substantial risk of death, serious permanent disfigurement, or protracted loss or impairment of a bodily member or organ.

III. GENERAL POLICY

- A. Reasonable force may be used by an officer in the performance of duties, when:
 - 1. Necessary to preserve the peace, to prevent the commission of an offense or to prevent suicide or self-inflicted injury.
 - 2. Making lawful arrests and searches, overcoming resistance to such arrests and searches, and preventing escapes from custody.
 - 3. In self-defense or defense of another against unlawful violence to a person or property.
 - 4. Preventing or interrupting an intrusion on or interference with the lawful possession of property.
- B. An officer may use reasonable force to overcome resistance to the lawful performance of duties, even though there is no immediate or apparent danger calling for self-defense. However, the officer must be acting within the scope of official authority. Every reasonable opportunity must be given to the person being arrested to comply. Force should be used only after all other means have failed to produce compliance.

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C. Before the application of reasonable force, officers should identify themselves and state their purpose to the offender and others present. This identification is not necessary if the officer reasonably believes his purpose and identity are already known or conditions exist which render it unfeasible to identify.

D. There is no specific rule fitting all cases as to how much force and means may be used, each case must be decided in the light of its own specific, articulate facts. Under no circumstances will the force used be greater than necessary and in no instance will deadly force be used except as stated in the Deadly Force section of this chapter.

E. Officers will use only the force necessary to accomplish lawful objectives. Officers must exhaust every reasonable means of employing the least amount of force before escalating to a more severe application of force. Officers shall attempt to de-escalate force when circumstances safely allow the Officer to do so. Under normal circumstances only the methods listed may be used to apply force. They are listed in ascending order from the least severe to the most severe:

1. Defensive Techniques;
2. Department issued Chemical Spray;
3. Electronic Control Device;
4. Department issued ASP baton;
5. Department issued or approved firearm and ammunition.

F. The Reactive Control Model is taught at the Southeastern New Mexico Law Enforcement Police Academy and expected to be used by officers of this Department to determine the appropriate course of action when interacting with a person(s) in a situation which may require the use of force.

IV. REPORTING PROCEDURES

A. All officers are required to complete a Use of Force report under the following conditions:

- a. When any type of force is used against an individual by an officer acting under color of law;
- b. When a firearm is discharged by an officer, except at the firing range or destroying an animal;
- c. When a person in custody receives a serious injury or has received a serious injury while taken into custody (except for jail injuries, which shall be by separate report); and
- d. An officer is injured in the line of duty

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1. Types of force will include, but not be limited to:
 - a. Joint locks
 - b. Mechanical restraints
 - c. Pressure points
 - d. Chokes or choke holds
 - e. Takedowns, throws
 - f. Striking weapons
 - g. Kicks or strikes with open or closed hands or with tools or implements of the trade (e.g., flashlights, metal clipboards, etc.)
 - h. Chemical weapons, and lethal weapons (including drawing a gun and pointing it at a person.)
2. The exception to this is when the only force used was a firm grip and/or use of handcuffs.
3. In any incident where force is used, officers shall document the incident on the Use of Force report. The report will include a detailed description of the following:
 - a. event leading to the necessity for the use of police actions;
 - b. the amount and type of action used;
 - c. the nature and extent of injuries, if any, and treatment rendered; and,
 - d. identity of individuals involved and other pertinent information.
4. In any incident where force is used, the supervisor on-duty will be required to conduct a preliminary investigation of the incident and complete a detailed report. In addition to the routine supervisory report review, the use of force review will include the following from the supervisor:
 - a. Photographs of any injury, or lack thereof, will be taken of the subject (not required if the only force was a weapon being pointed);
 - b. A recorded statement will be taken from the subject (if subject refuses or is medically unable, this must be documented).
 - c. Any civilian witnesses will be documented and a recorded statement will be obtained from them, if at all possible.
 - d. Assurance that any available on-scene recordings were logged into evidence.

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- e. Copies of the incident reports, photos, recorded statements, and any other attachments will be forwarded to the Deputy Chief of Police.

5. If the supervisor is involved in the use of force incident, then another supervisor will be required to conduct the use of force review. Any reports generated by a supervisor detailing their personal actions in an incident shall be submitted for approval to their immediate supervisor.

B. Non-injury Use of Force

The use of Defensive Tactics and/or Equipment frequently achieves the desired results without injury to any parties. However, documentation of such incidents is required. This account will include all circumstances that led to the use of a tactic or equipment and its actual use. The approving supervisor will ensure that the events are presented fully, in a clear and accurate manner.

C. Medical Aid to Injured Parties

When a person is injured because of an officer's use of force, the officer shall notify his immediate supervisor and seek medical treatment for the injured person, if necessary.

V. LESS THAN-LETHAL FORCE

A. Defensive Tactics

In order to provide members of this department with information, the Defensive Tactics Coordinator will schedule periodic training sessions which enable officers to learn and exercise acceptable methods of defensive tactics. Officers may use defensive tactics that they have been trained in and are qualified to use.

B. Police ASP Baton

1. The Department issued ASP baton may be used if a suspect has escalated to using threatening statements and begins to close the distance on the officer or another person in a threatening manner as if to batter them.
2. The ASP baton is not designed to be used as a club or bludgeon. Strikes should target areas of the body which may result in compliance by the suspect or allow the officer to gain control.
3. Strikes to parts of the body (head, neck, spine and groin) capable of inflicting death or serious bodily injury shall be avoided unless justified by the guidelines of the Deadly Force section of this chapter.

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C. Electronic Control Device

Electronic Control Device (ECD): A device designed to incapacitate a person from a safe distance while reducing the likelihood of serious injuries or death for the Officer and the Suspect. Furthermore, the device works independently and together as Neuro-Muscular Incapacitation (NMI) and/or as pain compliance (Drive stun also called Touch stun). This device has a low likelihood of injury and a high potential for control. AFIDs: Confetti like pieces of paper that are expelled from the cartridge when fired. Each anti-felon identification tag contains an alpha-numeric identifier unique to the cartridge used.

1. Procedures

a. Authorized Users

1. Only officers who have satisfactorily completed this agency's approved training course shall be authorized to carry ECD's.
2. Only officers who have subjected themselves to being fired upon one time with the ECD device while completing this agency's approved training course. This will allow the officer to become familiar with the effects of the ECD should a suspect retrieve the weapon and fire it at the officer, or should another officer unintentionally fire the ECD, or if an officer stepped into the direction of the ECD while being deployed at a suspect.
3. All officers will not remove the ECD from their duty belts unless it is to be used in a use of force situation, maintenance of the device by a certified instructor, maintenance of the officer's duty belt, or directed to do so by a supervisor.

b. Weapon Readiness

1. The device will be carried in an approved holster on the side of the body opposite the service handgun in order to avoid weapon confusion. Officers not assigned to uniformed patrol may utilize other department approved holsters and carry the weapon consistent with department training.
2. The device shall be carried fully armed with the safety on in preparation for immediate use when authorized.
3. Officers authorized to use the device shall be issued a minimum of one spare cartridge as a backup in case of cartridge failure, the need for redeployment, or in case the first cartridge's lead break during engagement. This spare cartridge shall be stored and carried in a manner consistent with training and the cartridges replaced consistent with the manufacturer's expiration requirements.
4. Only agency approved battery powered sources shall be used in ECD.

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2. Use of the Electronic Control Device

As in all uses of force, certain individuals may be more susceptible to injury. Officers should be aware of the greater potential for injury when using an ECD against children, the elderly, persons of small stature irrespective of age, or those who the officer has reason to believe are pregnant, equipped with a pacemaker, or in obvious ill health.

- a. The ECD device may be used on a suspect who is resisting the efforts to control him by aggressive movements and an escalation of resistive force.
- b. The ECD device may be used if a suspect has escalated to using threatening statements and begins to close distance on the officer or another person in a manner as if to batter them.
- c. The ECD is target specific and should result in the officer's ability to gain control of the suspect. Preferred target areas are the subject's torso (center mass) and or legs. Officers should avoid sensitive areas such as the eyes, throat, neck, or groin.

3. Restrictions

Using the ECD under the following circumstances would normally be prohibited. However, if the ECD could be used to save the officer or another from bodily harm, using the ECD could be considered justified as follows:

- a. On a handcuffed or secured prisoner, absent overly assaultive behavior that cannot be reasonably dealt with in any other less intrusive fashion.
- b. On a subject who is running from the officer
- c. In any environment where an officer knows that a potentially flammable volatile, or explosive material is present (including but not limited to OC spray with a volatile propellant, gasoline, natural gas, propane, or conditions that may be discovered when dealing with a methamphetamine production lab).
- d. In any environment where the subject's fall could reasonably result in death or serious injury or in water where the subject could reasonably drown.
- e. It is forbidden to use the device in a punitive manner.

4. Deployment of the ECD

- a. Upon firing the device, the officer shall energize the subject the least number of times and no longer than necessary to gain control of the suspect.

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- b. The subject should be secured as soon as practical while disabled by the ECD power to minimize the number of deployment cycles. In determining the need for additional energy cycles, officers should be aware that an energized subject may not be able to respond to commands during or immediately following exposure.
- c. In preparation for firing, the ECD shall be pointed in a safe direction, taken off safe, and then aimed. Center mass of the subject's back should be the primary target when reasonably possible; center mass of the chest or the legs are secondary targets. Officers should make a reasonable attempt to warn the subject and fellow officers of the impending use of the ECD by giving verbal warnings such as TASER! TASER! TASER!
- d. The device may also be used in certain circumstances in a touch stun or drive stun mode. This involves pressing the unit against an appropriate target area. It is important to note that when the device is used in this direct contact mode it is:
1. Primarily a pain compliance tool.
 2. More likely to leave marks on the subject's skin.
 3. Subject to the same deployment (use) guidelines and restrictions as those of the ECD in cartridge deployments.
5. Aftercare
- a. The ECD darts may be removed from the subject after the subject is restrained following procedures outlined in training.
- b. EMS will be called to complete a cursory check on each ECD exposure.
- c. The following persons shall be transported to a medical facility for examination following exposure to an ECD. Any person who:
1. Is hit in a sensitive area (e.g. eyes, throat, neck, and groin).
 2. Is in a potentially susceptible population category as defined previously.
 3. Has been subjected to continuous energy cycle of 15 seconds or more, or
 4. Has exhibited signs of extreme uncontrolled agitation or hyperactivity prior to ECD exposure.
- d. The detention officers will monitor the suspect at 15 minute intervals for at least one hour to ensure there are no persistent effects such as vomiting, excessive burning, loss of control of breathing or any other adverse effect. If medical attention is required, the detention facility will notify the on-duty supervisor as well as the officer involved so that a supplemental report can be done detailing the medical attention received.

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6. Reporting

- a. The deploying officer shall notify his supervisor as soon as practical after using the device, and complete the appropriate use-of-force report.
- b. Officers shall specifically articulate the rationale in their use-of-force report for any instance in which: an ECD is energized more than three times, an energy cycle longer than 15 seconds in duration is used, more than one ECD against a subject in any given incident, or an ECD is used against an individual designated to be in a susceptible population as described previously.
- c. Photographs of the affected area should be taken after the darts are removed.
- d. When the device has been used operationally, the officer shall collect the cartridge, wire leads, darts and AFIDs as evidence.

D. OC Spray

OC spray (pepper spray) plays a distinct and viable role in the continuum of force options and gives the individual officer an alternative to hard empty hand techniques and the use of an impact weapon, ASP.

1. Use of OC Spray

- a. The OC spray may be used on a suspect who is resisting the efforts to control him by aggressive movements and an escalation of resistive force.
- b. The OC spray may be used if a suspect has escalated to using threatening statements and begins to close distance on the officer or another person in a manner as if to batter them.
- c. The use of OC spray is target specific and should result in the officer's ability to gain control of the suspect.
- d. The target area will consist of the face, specifically the eyes.

2. Decontamination

- a. Decontamination begins after the suspect has been restrained with handcuffs or by other means and the suspect's resistance has ceased.
- b. Decontamination should begin in a reasonable time frame and officer safety concerns should be taken into consideration.

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- c. Exposure suspect to fresh air and flush affected area with water.
- d. Call medical personnel (EMS) to perform a cursory check of the suspect, to remove any contact lenses if necessary and to continue flushing the suspect with water.
- e. Once the suspect has been transported to the Lea County Detention Facility.
- f. Under no circumstances will any creams, slaves, or oils be applied to the affected area.

3. Reporting

- a. As with any use of force or application of force, a written report will be submitted detailing the use of the OC spray, decontamination procedures and the events leading to the use of the OC spray.

E. Bean Bag Munitions

These munitions provide an officer with alternatives rather than lethal force. Bean bag munitions are designed as a less-than-lethal. Munitions are to be deployed against individually selected targets.

1. Use of Bean Bag Munitions

- a. Designated personnel will be required to complete certified training in the use of bean bag munitions. Designated personnel will be limited to Patrol Services Supervisors and specialty impact munitions instructor(s).
- b. Designated firearms will be clearly marked. They will be painted around the muzzle and butt of the firearm and will be placed separately from the unit's primary firearm.

2. Primary areas of concern

- a. Capability of weapons possessed by suspect or crowd.
- b. Ability of 'munitions' to resolve or suppress the situation safely and quickly.
- c. Officers must have lethal force back up.

3. Use of Bean Bag Munitions

- a. Use of the munitions will follow the Reactive Control Model. Bean bag munitions may be used in various situations, as an option to lethal force, such as armed subjects, suicidal subjects, etc.

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4. Effective Use of Bean Bag Munitions

- a. At a distance of less than ten feet munitions should not be used if possible, due to the high possibility of a fatal outcome.
- b. At a distance of ten to twenty feet, attempt to avoid the head, neck, spleen, liver and kidney areas. At this distance the target area should be the subject's legs.
- c. At a distance of twenty to forty feet, the target area should be center mass.
- d. The maximum effective range of the munitions is fifty feet.
- e. If the subject's threat level increases to the point that deadly force would be justified, the officer can target any area of the subject's body, regardless of the distance.

5. First Aid

- a. First aid will be given in a reasonable time frame, once officer safety has been assured.
- b. EMS will be directed to perform a cursory inspection of the subject to determine if medical treatment for the subject is required.
- c. Once the subject is in the custody of the jail personnel, they will monitor the subject for any medical complications. Jail personnel will observe the subject for a minimum of once every hour, for the first six hours.

6. Reporting

- a. As with any other Use of Force, a written report will be submitted detailing the incident and First Aid procedures taken. Officers should include number of munitions used, range to suspect, point of aim, point of impact, suspect's reaction, and observed injuries.
- b. In the event impact munitions are deployed a detective will be called to process the scene and the Division Commander will be notified.

F. Other

Under emergency conditions, an officer can use whatever weapons are available.

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VI. DISCHARGE OF FIREARMS

A. Officers may discharge a firearm under the following circumstances:

1. To safely destroy an animal that represents a threat to public safety; as a humanitarian measure where the animal is seriously injured and other alternatives have been exhausted
2. During range practice or competitive sporting events
3. For ballistics and scientific testing
4. In defense of a life

B. Firing a weapon should be for the intent of rendering the person at whom the weapon is discharged incapable of continuing the activity prompting the officer to shoot.

C. Warning shots are normally prohibited, however may be used if doing so would save the officer or another from death or great bodily harm.

D. Firing a weapon at or from a moving vehicle should not be considered except as the ultimate measure of self-defense or defense of another when the suspect is using deadly force.

E. Firing at a fleeing person will not be considered justified unless the officer reasonably believes that the person he is considering shooting poses an imminent threat to human life.

F. When an officer discharges a firearm accidentally or in the line of duty, except at firearms qualifications, his immediate supervisor will be notified as soon as possible, but never later than the conclusion of his tour-of-duty.

G. When a duty firearm is discharged, on or off duty the officer shall file a written report of the incident through established channels to the Chief of Police.

H. Division Commanders shall review reports of discharge of firearms with the assistance of the Range Master in charge of firearms instruction. The Division Captain will investigate the facts and will submit a report of his findings and recommendations. A copy of the report will be forwarded to the Range Master in charge of firearms instruction.

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VII. DEADLY FORCE

1. Deadly force may be used only when the officer reasonably believes that the action is in defense of human life, including the officer's own life, or in defense of any person in immediate danger of serious bodily injury.

2. An officer may use deadly force:

When the suspect is intent on immediately endangering human life or immediately inflicting serious bodily injury unless apprehended without delay. The officer must reasonably believe that the suspect is armed or has the means to inflict death or serious bodily injury.

3. Prohibited uses of deadly force:

a. Officers Shall not unreasonably or unnecessarily endanger themselves or the public in applying deadly force pursuant to this policy or state law.

b. An officer shall not rely solely on third party reports as a basis for use of Deadly Force, without firsthand knowledge of an alleged offense.

c. An officer shall not use deadly force in situations that would not be in accordance with New Mexico State Statutes.

d. In an attempt to apprehend fleeing felons or escapees whom are not placing the officer or another person in immediate danger of death or imminent serious bodily injury.

4. All officers shall be provided with and be familiar with all provisions of the New Mexico State Statutes and this directive governing the legal use of Deadly Force.

VIII. ADMINISTRATIVE DUTY

A. Immediately following an officer's involvement in an incident involving serious injury, death, or the discharge of a weapon other than while training, the officer will be automatically placed on administrative duty pending a review by the Chief of Police, the officer shall remain n an administrative duty status until such time as the matter is resolved legally and administratively.

B. Assignment to administrative duty is non-disciplinary with no loss of pay or benefits. This duty is designed to:

1. address the personal and emotional needs of the officer involved in the use of deadly force and,
2. insure the community that the facts surrounding the case are fully and professionally investigated.

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- C. An officer placed on administrative duty will be assigned to office duty in civilian clothes.
- D. The officer may be placed on administrative leave instead of administrative duty at the discretion of the Chief of Police. Assignment to administrative leave is non-disciplinary, with no loss of pay or benefits.
- E. An officer on administrative leave shall insure his/her availability to investigators until the investigation has been concluded.
- F. Officers on administrative duty or leave are authorized to carry an approved firearm, unless otherwise directed by the Chief of Police. Officers shall not work off-duty police related jobs and should not enforce laws and make arrests except in emergency situations.
- G. An officer whose action results in deadly force incident will be required to counsel with the Department appointed counselor. The counselor must make written notification that the officer is fit for duty before that officer returns to duty.
- H. The Department will make available and reserve the right to require counseling for officers who had involvement in a deadly force incident.

IX. INCIDENTS OF FORCE REVIEW

- A. If a use of force reasonably indicates a possible violation of LPD policy or other inappropriate conduct, the immediate or any other supervisor will refer the matter directly to the Division Commander for investigation procedures and provide a copy of that referral to the chain of command.
- B. Referrals to the Division Commander(s) will be automatic and take place immediately anytime there is a firearms discharge (except at the firing range or in the event of putting down an animal.)
- C. Division Commanders will be responsible for ensuring that all use of force data from all reports are regularly and accurately compiled, analyzed and reviewed.
- D. The Administrative Staff will:
 - 1. Analyze use of force data on a quarterly, cumulative basis to detect trends;
 - 2. Have compiled in writing and review use of force incident by officer and type of force used and,
 - 3. Review these data for the purpose of identifying and acting upon their implications for policy and training designed to ensure that officers are using only appropriate types and amounts of force.

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X. TRAINING

- b. Annual training will be conducted to instruct officers in the Use-Of-Force policy. This instruction will be documented.
- c. Copies of this policy will be issued to each officer, before being authorized to carry a weapon, and will be updated as needed. This issuance and instruction will be documented.

